

**Town of Milton  
Planning & Zoning Meeting  
Milton Library, 121 Union Street  
Tuesday, August 20, 2013  
6:30 pm**

**Minutes are not Verbatim  
Transcriptionist: Helene Rodgville**

1. Call Meeting to Order – Don Mazzeo called the meeting to order at 6:30 pm
2. Roll Call of Members

Barry Goodinson	Present
Lynn Ekelund	Present
Linda Edelen	Present
Mark Quigley	Present
Don Mazzeo	Present
Tim Nicholson	Absent
Bob Heinrich	Recently resigned

Don Mazzeo: I will expect the Mayor to be appointing a new member probably within the next month or so. So that brings us down to a total of six active commission members. Recognize that to have a quorum we must have four, we have five this evening, so we have a quorum. We're in good shape.

3. Additions/Corrections to the Agenda  
Don Mazzeo: Do we have any additions or corrections to the Agenda?

4. Approval of agenda  
Don Mazzeo: Seeing none, I'll ask for a motion to accept the agenda.  
Lynn Ekelund: Move to accept the agenda.  
Linda Edelin: Second.  
Don Mazzeo: All in favor to accept say aye. Opposed. Motion carried.

5. Minutes of June 18, 2013 and July 16, 2013  
Don Mazzeo: Do we have any discussion, comments, questions or corrections related to those two sessions of minutes?  
Linda Edelin: At the last meeting, I was not in attendance, so the roll call of members should include Lynn Ekelund, but not myself.  
Don Mazzeo: That was July 16<sup>th</sup>. Oh, isn't that interesting. Other than the attendance of the members for that meeting, are there any other questions, statements regarding the two sets of meeting minutes? Hearing none, I'll accept a motion to accept the minutes of June 18<sup>th</sup> and July 16<sup>th</sup>.

Lynn Ekelund: So moved.

Mark Quigley: Second.

Don Mazzeo: All in favor say aye. Opposed. Motion carried.

6. Discussion and possible vote on the following item:

**a. Final Subdivision Plan Review/Approval**

The applicant, Fernmoor Homes at Heritage Creek, is requesting a final subdivision review/approval for Phase 4 of Heritage Creek further identified by Sussex County Tax Map and Parcel # 2-35-20.00-56.00.

Don Mazzeo: We have the applicant present.

Ben Gordy, Ocean Atlantic representing Fernmoor Homes: I also have Doug Bloner with George, Miles and Buhr here with me. I guess it was a few months ago we came in for preliminary approval of Phase 4 of Heritage Creek, which includes these lots here and we'll go through the numbers; but basically we are back now requesting final approval of those. I believe we've addressed all of Mr. Kerr's comments, but we can go through those if you'd like.

Don Mazzeo: I'll ask Mr. Kerr for input. Has Heritage Creek Construction upheld all of the criteria that was initiated by the preliminary?

Bob Kerr, CABA Associates: Yes, Sir. They have met all the requirements that you placed upon them and to the best of my knowledge, everything in the Code that they're required to do. The only thing I would ask is for Robin to speak to the outside agency; because I'm not sure that I've seen them, but they oftentimes just come to him.

Robin Davis: Yes, all the outside agency's approvals have been received.

Don Mazzeo: Other than that, do we have any questions from the Commission of this application, prior to voting? Hearing none, I'll accept a motion to approve final for Phase 4 of Heritage Creek as notated.

Seth Thompson: I think it should be a recommendation.

Don Mazzeo: Recommendation, to Council, to approve.

Lynn Ekelund: Well, as worded now...

Don Mazzeo: As corrected.

Lynn Ekelund: I move to recommend that Council approve Phase 4 of Heritage Creek.

Mark Quigley: Second.

Don Mazzeo: Any other questions or comments? All in favor say aye.

Opposed. The final sub-division has been approved for Phase 4 of Heritage Creek.

**b. Off-Street Parking Waiver Policy**

A policy establishing conditions by which the Planning & Zoning

Commission may grant waivers for off-street parking application. This item was referred to the Commission by Town Council.

Don Mazzeo: Under those circumstances I would ask perhaps that our solicitor may have some input to this, so we all understand what we're supposed to be reviewing and processing this evening.

Seth Thompson: Certainly. At the last Council Meeting, I supposed I shouldn't say the last, at the first Council Meeting of this month, since I think they've had a meeting since then, the Council was reviewing this issue and asked for Planning and Zoning's input on this, since the way the current Code reads, any sort of waiver for the off-street parking would come to Planning and Zoning anyway. They'd like to have a better defined policy. The only Code language currently applicable, is that basically the Planning and Zoning Commission could waive off-street parking requirements if there's adequate public off-street parking within 400'; if there's evidence of satisfactory off-street parking arrangements; so I gather you could make some sort of contract with your neighbor to satisfy the parking requirement; or if there are any questions in Town Center. So you don't need to have the off-street if you're in that zoning. Robin could probably fill in any sort of gaps, but I think primarily the issue comes to a head with church and schools and special events, based on the fact that people will end up parking in the grass, which is technically not allowed in the Town. So in order to meet that demand, they could seek to establish a parking lot. The only problem is that all of your parking lots need to be paved, which of course comes at a good expense. So the Town Manager drafted the Off-Street Parking Waiver Policy that's in front of you. It doesn't specifically mention the fact that they are looking at non-profits and perhaps not for-profits. That seemed to be what the focus of the discussion was. So, again, I think Council was really hoping that Planning and Zoning could do the heavy lifting on something like this, since under the current Code, you guys look at it anyway. Now, typically what happens though is that that's done in conjunction with an application for a site plan. In reviewing the site plan you can see they have other space within 400', therefore we don't need to require it on this particular site plan. Council, I think, would like to develop a policy, hopefully through your efforts and then obviously their ultimate approval, that it would be more applicable in the event-based context, as opposed to somebody coming in with a new site plan for review, that preliminary review, and then coming back for final. That's the history of the issue. I don't know if Mr. Davis wants to chime in more.

Don Mazzeo: Mr. Davis, do you want to chime in? Quite honestly, I'm not even 100% sure what the Mayor and Council is specifically asking us to do. Are we writing a new section of the Code; or are we viewing the existing and modifying, recommending modifications; is that what we're doing?

Seth Thompson: My preference is always to put things in the Code, because frankly everybody gets very used to going to the Town Code; or at least we

hope that they do, going to ECode 360 and looking at the Code. This was drafted. The Town Manager was hoping we would do it as a policy, basically giving a little bit more substance to what's currently in the Code, as opposed to going through the codification process where there's an Ordinance that gets drafted and gets read twice and again, I think that's really because of the timeliness of this, where you have people going to church. They're technically parking illegally and the Town isn't citing them. So it could be that a policy is going to be a band aid on the issue. Ultimately, I think it really should go into Code.

Barry Goodinson: I'm not sure if I understand the difference between a Code and a Policy; if you could clarify that some?

Seth Thompson: Certainly, the way it works is in the past Towns could draft Ordinances and really that's what we still call them, but the collection of Ordinances is essentially the Town Code. So if somebody thinks of this as a Zoning Ordinance, then that's really Chapter 220 of your Town Code. The reason we do that, is so that they're all in one place and everybody can go to ECode 360 and look at all of your Ordinances, collected as a Code and it's easier to reference them based on the Chapter of the Code and the Section put in those Chapters; rather than in the olden days we had hand written Ordinances and they would just be collected in a book and you would have to go to Town Hall and look through and figure out what Ordinances applied. So, the policy level, I think Mr. Abbott's suggestion to Council, was we're really expanding, we're kind of giving a little more guidance on this notion of evidence of satisfactory off-street parking arrangements have been documented and I suppose that is one way to again put a kind of a band aid on it. My preference... I would just like people to be able to access it now. The Town is getting better about putting their policies up on the website, but that's kind of why this was drafted as a policy. I think there was more of an urgent need, than two readings at the Council level and adoption of the Ordinance, sending up to the General Code to have it put online, that sort of thing.

Don Mazzeo: Let's utilize the names that were already on record, as St. John's Episcopal Church, apparently was one of those who are impacted by the lack of parking on-site. Cannot St. John's Episcopal Church today come to Town and ask to have a waiver put in place, specifically for their events, which is obviously church services on whatever day they are being held; without a policy? Isn't there something already in our Code that suggests that?

Seth Thompson: There really isn't a waiver provision or enforcement of the parking on grass issue.

Lynn Ekelund: You said there isn't a waiver provision or enforcement...

Seth Thompson: That's right, so in other words, really the Town should be enforcing this, but ultimately they're not.

Lynn Ekelund: There is a policy in place and a policy that is not being

enforced. Is that what you're saying?

Don Mazzeo: Yes.

Seth Thompson: I would call it an Ordinance.

Barry Goodinson: So we're currently not enforcing the Ordinance against parking on the grass.

Seth Thompson: Correct.

Barry Goodinson: Okay.

Don Mazzeo: But are they doing that unilaterally on ALL event?

Robin Davis: That is correct. Yes. Say when there's a funeral at Short's Funeral Home. They have a lot across the street. People park there. People have always utilized the Goshen Church lot, grass area, first more than the parking lot; the school when they have a big assembly or graduations or something, they're always parking in the grass. I think it's more of a do you want to make them pave over grass, just for a one time a year, or three times a year function? You would end up like you have at Food Lion, where a quarter of the parking lot gets used and we've got paving everywhere out there; so I think that's the whole thing. It's always been... I grew up in Milton and I can remember going to Short's Funeral Home to a funeral and people have always parked at Goshen Hall in the grass. So it's not just a new thing. It's also town functions. The Historical Society does the same thing; they park in the grass. When we have the big functions at the Park, I think we let them park at the water tower. So we're letting people park in the grass, so it's across the board; it's not just we're picking on one. I think, Mr. Donnan was the one who authored the letter. I think it was more geared towards St. John's Church, because they bought the old Tony's TV lot and they wanted to park there and they were told it's a different parcel, so it's required to have a parking lot there. So you have to pave it and they were looking at other ways to try to utilize an area for parking, but not going to the expense. So that's where it all came from and everybody, instead of just focusing on the church or the non-profits, we need to group everybody in there and say okay, is it going to be for Short's too, is it going to be for the schools, is it going to be for anybody who just wants to have a function at my house and I want to park on the grass.

Seth Thompson: It's interesting to look at this as a \_\_\_\_\_ issue, in the sense that you have a bunch of extra wrinkles that come with that. For instance, the pre-existing non-conforming use. I almost view it as something that would make sense as far as an event license. I think that might more directly address the issue, but I'm not appointed to the Commission.

Robin Davis: I personally think it's going to be hard for the applicants, or whoever is having these events and the Planning and Zoning Commission, because we only meet once a month. Who's going to be out there on a Saturday or something when the Soccer Club's parked on the grass, checking somebody to see if they have a waiver or an okay?

Seth Thompson: Really that seems to be a Code Enforcement... So for

instance, if we get a mechanism in place where somebody can come into Town Hall and apply for an event parking permit, so to speak; again, it's up to you guys and then ultimately up to Council, but the thought that that would have to go through an entire month long or our meeting once a month that sort of thing, fill out an application fee that typically would go with your type of application where you're going to have professional factor into that fee, it seems a little bit burdensome.

Don Mazzeo: I would agree with that.

Barry Goodinson: Yes.

Seth Thompson: I think the other element, there's some concern over \_\_\_\_\_ on impervious surfaces here.

Barry Goodinson: Yes, I agree.

Don Mazzeo: The last thing I think the Town needs is to have more impervious... We're already beyond where we should be, in my opinion, but that's neither here nor there. I like the idea of having, perhaps, an application that is reviewed by the Town Manager and signs off that says you can have... and we'll just use the church, or Short's, we'll use Short's, that they have an annual permit that suggests they can do X, Y and Z based on the fact that they have no on-site parking to accommodate more than four cars, if they even have that much. The same thing would hold true for anything that's going on in Town. The Town issues themselves the permit, goes through the Town Manager. I don't think it belongs at this Commission, to be honest with you, unless they're going through the Town Management that says, you're going to get a citation, ticket, something if you don't follow through and do what you're supposed to do.

Barry Goodinson: I think from the perspective of ease of use, putting into the Town Code makes sense because then it will all be in one place and people will know where to find it, so it's not a scavenger hunt and we should make this stuff as easy as possible to find. The other concern I have too, is if we just kind of leave it in the permitting realm, then we have no control over what those parking lots look like. So, for example, we don't want impervious surfaces, so I think the general consensus from what I'm hearing, is we would prefer to have less paving, but that doesn't mean we want a parking lot that's going to be kicking up a lot of dust and annoying the neighbors; so this is an opportunity for us to build into the Code a little bit of direction in terms of we don't want them to pave it, but there's got to be some way that they're cared for and properly maintained.

Seth Thompson: I think if you look at it as a continuum, as well, it's helpful... you don't want it to be exploited as a means around our current parking requirement for somebody who should be going through the site plan process; that makes sense. It's something that's going to be used on a daily basis, they shouldn't be walking to Town Hall every day and asking for a parking event permit; that doesn't make much sense. So I think there is a time element to it, that probably separates it from our more normal site plan

review where we look and it doesn't make sense to waive the parking requirements. Really, it's permanently for that site. For instance, when we say that there's evidence of off-street parking arrangements; we then don't require them to have on-site parking arrangements then. So, I guess there is kind of a spectrum to the use and that might be something that the Commission wants to think about. Is this something that's twice a week, to frequent that it should be limited. As soon as somebody's holding an event twice a week, that they're going to need a bunch of parking... should they really just be going through the site plan process.

Don Mazzeo: As an example, if someone were to apply for this waiver on a twice a week or twice a month basis, I think whomever is going to review this, whether it's here or back in Town, currently with Win Abbott, that should set off a flag that says wait a minute, you could have it once a month or once every four months or we can set a timeframe, but if you're coming in as frequently as twice a month, something's wrong and you're absolutely correct and it should be doing it under the Code that says site plan review, even if they're not going to be building anything; they're doing something that is outside of the realm of what is allowed by our code.

Barry Goodinson: Can I just ask a quick question, because this thing was kind of incomprehensible, I have to say... is the waiver that's being requested a waiver of the... if they don't currently meet the number of spaces, or is it the type of parking? So we're talking about paved area and with those things that stop your car from rolling and all of that stuff; so there's the number and then there's the type and I'm not exactly sure; it seems like it's a little bit jumbled up in here.

Robin Davis: It might be a little bit of both and I'm just going to use what Mr. Donnan has brought to the Town; he's the one that was more at the forefront. During the conversations, the church was concerned about the cost of having to pave a parking lot. Again, the site that they were talking about was not even on the site where the church is at; so there's no available parking on that site, anyway; so they were going to have to have an off-site place where they were going to build. I don't think they were going to be able to get enough to meet the number, anyway; so they were going to be building an off-site parking lot probably with ten parking spots, maybe, that wasn't going to fulfill their needs. It was just going to help offset some. But the biggest concern was, we're going to have to pave this and the money it's going to take to do that. That was, I think, their concern.

Barry Goodinson: Is there currently parking there? Are they currently using that parking space?

Robin Davis: I think so. I think they're currently doing it there anyway.

Barry Goodinson: So it doesn't feel like there's a great urgency, if we're not enforcing the existing Code. We kind of like, by practice, are granting the waiver, anyway; so why don't we take the time...

Don Mazzeo: Indirectly. By lack of definition, yes.

Barry Goodinson: So why don't we take the time to actually write this thing for the Code and not try to rush and work on this policy thing as a band aid?

Seth Thompson: I think, again that would be my recommendation. I just think it's better if everything's in one place. Frankly, I'm not really sure that we should only go with the event-based waiver; that it really belongs in Zoning.

Don Mazzeo: It doesn't. It doesn't belong here.

Barry Goodinson: And I agree with you.

Seth Thompson: I think it was kind of being shoehorned in, based on your jurisdiction over waivers on the site plan.

Mark Quigley: And it sounds like they're trying to comply within the law of the Town and we don't want to make it more difficult for them...

Don Mazzeo: And expensive. That's the other issue.

Mark Quigley: Exactly. Absolutely.

Don Mazzeo: It started under the guise of non-profits, whether it be church or other; which would include the schools, of course; but if they're going strictly to the non-profits, then we have to start recognizing that if they don't have the funding to present an application that shows paving and lines and all this stuff, what is it that we would do? We would then grant them a waiver. I thought it was kind of built in already.

Mark Quigley: Some type of exclusion for these folks in these different organizations.

Don Mazzeo: Maybe I've misread this.

Seth Thompson: What I think the problem is, when that waiver application would be before the Commission and again, it's really through that site plan process; that's when you turn to it and have it set up, but that's when you would be requesting a parking waiver...

Don Mazzeo: So if there's no site plan, there's no review.

Linda Edelin: But they're not doing a site plan.

Seth Thompson: Right, they're basically... again, these are pre-existing non-conforming uses and it really only comes up if there's been a change of use on the parcel where some other parcel is being developed and it wasn't.

Robin Davis: That's basically the same thing with St. John's Church. If they wanted to build a parking lot on that lot, it's not for the use on the lot. The church is not on that lot, so there's no actual number to say okay you've got to have 25 spots; because there's no use to marry that to for that lot. They would just have...

Seth Thompson: It is being used as a parking lot. That would essentially be a private parking lot.

Robin Davis: Yes.

Don Mazzeo: A private parking lot for anyone's use who wishes to do so. I mean, if it's not a Sunday morning and somebody wants to park there, can they stop them? No.

Robin Davis: The church can, yes.

Don Mazzeo: In theory, they could put a gate up and all kinds of stuff, but it's basically going to be a public parking lot, is my guess and they'll have exclusive use on Sundays. I don't know how you would assign that one.

Bob Kerr: I would just add one thing. I always look at these things as how it could be used against you. When you're looking at a new Ordinance or a Policy and I'm not a fan of Policies, because DelDOT changes their Policies, just about weekly and it's a full time job trying to keep up with your policies, but how would you feel if somebody; not to pick on the church, but I'll use the church, bought six or seven properties on the other side of the street, tore all the houses down and even if they knew, so they started using it as a parking lot. You would have no landscaping, no requirements for lighting, no entrance approval; you run into the possibility of it just happens, as it is now, you start to have stormwater possibly running onto adjoining properties, there's all kinds of things and it's a nice thing to be able to say sure go ahead and do it, we'll either sign off on it, or just look the other way, but it has to do with what's there for everybody; because then you get into well should the funeral home start getting more and more and all of a sudden Food Lion says, well our paving's falling apart; why should we bother to repave, because nobody else in Town had to?

Barry Goodinson: Right.

Don Mazzeo: I think this is not going to be a recommendation to do anything with forwarding to Town Council tonight. Minimally, that's what I would say. I think we probably need to address this at subsequent meetings and I would just recommend that Seth, you take it back to Mayor and Council with a statement that we are going to review this, but based on input from not only yourself, but our engineer and the members of the Commission and if there were someone from the public who wanted to say something.

Lynn Ekelund: Well, that's something that I was thinking, when I was reading this mostly incomprehensible Town of Milton Off-Street Parking Waiver Policy; is there is no provision in here for public notice and I think that at some point, if we're going to be doing something like this, we ought to, especially if we're designating as the people that we are looking at in particular as Short's Funeral Home, St. John's, the Museum, the Fire Department and Dry Zone, well that's what Alex put in there; I think we ought to have some input from the public, specifically those folks that live around where these parking lots are going to be either allowed or wink-wink, nod-nod allowed. I also think that there should be some form of distinction how we would do it; I don't know, between profits and non-profits. I'm pretty firm on that and I mean, especially when I saw Dry Zone in there. I live close to Dry Zone and I know the upheaval that Dry Zone has caused in our neighborhood and I can see Dry Zone saying, well if you're going to let them do it, then why not me? That's where I concur with you, Bob. I think this deserves a lot of thought. I think it should be put into the

Code, but we've got to consider an awful lot of things before we put pen to paper.

Barry Goodinson: And I don't know if the distinction necessarily has to be the non-profit and for-profit. You could say there's a public good that's going to be realized by giving a waiver to a non-profit organization; but then there's also a public good that's going to be realized if a for-profit corporation is given a waiver, but given some direction in terms of not creating an impervious parking lot and we build in some other guidelines. I think that it's an important thing to do, but I don't necessarily know that's the line we have to draw.

Linda Edelin: I'd like to think too that perhaps there would be some time frames, where a waiver, if granted, lasted only a period of time; sort of as a preliminary and in a way that it could be revoked.

Barry Goodinson: I'm just wondering too if it's necessarily a waiver, but if we just change the standards that govern parking lots; so we go into the Code and change, so therefore, we've got certain criteria that need to be met under certain circumstances, but we've got a broader tool kit to draw from so it could be pervious surfaces or impervious surfaces, depending upon the amount of use that the parking lot is going to get. It could be in a residential area, kind of like Dry Zone, yes, we would grant a permit for a parking lot there, if the following conditions are met in terms of lighting and planting and things like that. I think we just need to build in more tools, rather than just creating a waiver.

Seth Thompson: The one thing I heard, so it sounds like the Commission might be considering other surfaces, is what it sounds like, but I don't want to read too much into the comments. The way our Code works currently, it has to be an impervious surface; so in other words...

Don Mazzeo: Hard surface.

Seth Thompson: A hard surface.

Robin Davis: Dust free.

Seth Thompson: Oh, okay.

Don Mazzeo: It could be like 4" of crushed stone, that would probably work; or whatever the numbers may be.

Seth Thompson: Has it been interpreted crushed stone?

Bob Kerr: I don't think we've allowed crushed stone.

Seth Thompson: I think because of the dust.

Bob Kerr: Because of the dust, there have been times when and I don't believe it was actually built, but they came forward with either pervious hot mix, which is just an open grade; it doesn't have a lot of fines in it; or the same thing, I'm aware of it, but I've never seen it used, pervious concrete and the school, I think it was the school, was talking about using that one time.

Robin Davis: The Theater.

Bob Kerr: The Theater?

Barry Goodinson: There are a number of products; there are resin products

that can be worked into the existing soil that stabilizes the soil, cuts down on dust, but it makes it pervious to water.

Bob Kerr: Right, one of the big reasons for dust free and a harder surface is so that you don't track things out onto the Town streets; whether it be small pebbles, or just stone, or grass or whatever; but then you have the possibility of it being thrown up in a windshield and that kind of thing. There's a lot of trade-offs.

Mark Quigley: I think the beauty of this Town, we'll use Short's Funeral Home; they've been using that forever and I think that's why a lot of us are here, stay here, moved here, relocated here. I'm one, I do not want to over-complicate this, by any means and something about that profit and non-profit, non-profits turn a profit, so they're a viable, legitimate business. They just fall under a different tax structures, as we know.

Linda Edelin: They actually have money sometimes.

Mark Quigley: Yes, that's right.

Don Mazzeo: And those that are supposed to be making a profit, aren't, so therefore they're non-profit.

Mark Quigley: Exactly, so I like keeping it universal.

Barry Goodinson: So what's the process in terms of going through and crafting a new Ordinance; in terms of transparency? Can a group go off and bring something back for this group and the public to react to? How is that done?

Seth Thompson: The way it works, any time there's a quorum of your Commission, it needs to be at a properly noticed meeting, so very often you might have one Commission member that's kind of assigned to do some homework, so to speak in comparing what other towns have done and I always encourage my towns to look and see what seems to be working in nearby towns, or maybe if you don't have an easy comparable directly nearby, a town of a similar makeup, that's still within the State of Delaware, so that the State law compliance is not a problem and for that ECode 360 really is helpful. I can tell you that I go to that and I look and see what other towns are doing. It's a question... I'm always willing and able to step in at any point. I try and be flexible with my client's too, because frankly everybody has to work within a budget; so some of my Commissions, some of my Towns, come with me and say we have this draft. We'd like you to review it for removing any sort of ambiguity, pointing out any sort of legal issues; that sort of thing. Some towns just if they're getting towards the end of the fiscal year and they have money to spend, they say this ball is in your court, take it and run and so I'll start from square one and I'll work forward. It's more of an art than a science, frankly, because you know the town very well. You have your ear to the ground and know what's going on and that's an advantage that I don't have to the same degree. The process would be very simple, frankly, that you would put it on, you would notice it for a meeting, you would have a discussion in public, this is something that on

your level doesn't require public input, but you certainly can receive it; there's nothing that prevents you from giving the public an opportunity to provide their input and for the most part, that tends to end in a better final product. There are a lot of people out there with very good ideas and that's actually one of Milton's assets, is that you have people coming from all over, so maybe something that hasn't been tried in Delaware, they know a little bit about, because they were in a different area. But that would be the process and then you would make a recommendation to Council. Again, I could put it in the Ordinance format, there's nothing magical about that; but I typically try and do it in terms of I do a strike-through where removing language from the Code and do an underline where we're adding language, so that everybody can see what's changing. I think that tends to be the format that I like and that's what our State Legislature uses too; so that nobody can say I voted on something that removed all parking requirements whatsoever. Why didn't you point that out to me? That would really be the process and then once there's a consensus here and there's a vote to recommend the Ordinance to Council, it would go to Council. If it's going to affect Zoning, they have to have a Public Hearing and they have to notice it in the newspaper 20 days in advance. If it doesn't affect Zoning, they technically don't have that requirement, they could just put it on their agenda.

Barry Goodinson: So I understood the end part of it, but I'm not sure of the beginning part. So what you're saying is if the Commissioner's, one or two, go off and create some draft thing and it's below the quorum threshold, then that could be sort of done.

Seth Thompson: Right and there's nothing that prevents two of you from talking about this issue. By that and I'm not looking to circumvent FOIA, what I'm saying is that the two of you shouldn't be ships in the night; pretending not to see each other as you walk by on the street...

Barry Goodinson: Then they would come to this body and say here's my big bright idea, what do you think? And then we would discuss.

Seth Thompson: That's right. And very often you'll see some Commission's might just print out Dover's Parking Ordinance, or whatever the applicable Ordinance might be, because again, this is more of a parking issue I would say, than a zoning issue.

Linda Edelin: Not Dover.

Seth Thompson: Not Dover?

Don Mazzeo: Seth, we could also schedule a workshop session, independently of public input? But it can be open to the public, but I'm saying it's not going to be a Public Hearing.

Barry Goodinson: So it's a publicly announced workshop?

Don Mazzeo: Yes.

Seth Thompson: Correct.

Don Mazzeo: And you sit around and instead of being at a nice long table, we sit around a square table and we throw ideas out onto the table. We're

going to kind of get into this in this next session of our agenda, but...

Seth Thompson: We are heading there, you're right.

Don Mazzeo: We're heading in the direction that we were going to take as you can see on our agenda tonight anyway.

Seth Thompson: You would just need to notice it. A lot of the towns use that term workshop to mean there's not going to be some final vote. It's really a brainstorming session.

Don Mazzeo: Brainstorming session. They have to call it something better than brainstorming session.

Seth Thompson: It's the same FOIA notice requirements, that you just have to put down what the topic of discussion is, but you wouldn't have to receive public input at that point. Frankly, if you're at the preliminary phase, it really probably is better to get beyond that, so that the public can get closer to what hopefully will be a final product, so that their comments can be a little more directly on point.

Don Mazzeo: I almost prefer, and I'll use the term workshop; I prefer the forum of a workshop and it doesn't mean everybody can be there, because maybe they've got other issues that are going on; it doesn't have to be a Tuesday, you know what I'm saying? It could be Thursday of the fourth month of the year; I mean I don't know what it's going to be, but allow everyone who wants to come in and join; try to get as many people as possible, but then you don't get a quorum, do you? It's not a meeting, it's a workshop. Do we need quorum to become...

Seth Thompson: You would need a quorum... It's interesting, because if you're below a quorum, then it's not technically a meeting that would require a FOIA notice, so the three of you could sit there, but of course, you couldn't take any formal action.

Don Mazzeo: Which we probably wouldn't at a first workshop session anyway.

Seth Thompson: Right and I think that's what most people think of when they hear the term workshop, is that no formal action is going to be taken.

Don Mazzeo: In fact, it could be noticed in the paper accordingly; there's going to be a workshop, hence no formal action will be taken at the end of the meeting, or the end of the workshop.

Seth Thompson: Right.

Mark Quigley: Okay, I like that.

Don Mazzeo: Well, any other questions, comments concerns on this particular item?

Mark Quigley: So do we tell the Town Council that we're going to take this and workshop it?

Don Mazzeo: That would be what I would suggest we go back, Seth, to Mayor and Council, recommending that we then take the next step which will be a workshop; taking into consideration all the parts and pieces that we are aware of and then come to a conclusion that we can then open it up and

bring it back to the Commission and here's a recommendation that we would then forward to Mayor and Council, if/or after we have public comment on it as well.

Robin Davis: Seth, can we just have that put on the agenda like it was at the last meeting and then maybe if the Chairman is there, he can explain that to the Council?

Seth Thompson: Sure, that's right. You could really do a Commission Report, kind of a like a Committee Report if you wanted, or I could do it. It doesn't matter.

Don Mazzeo: Only to the extent that I will not be here at the next Council Meeting, nor will I be here at the next Planning and Zoning meeting.

Seth Thompson: I'll ask the Town Manager just to put on a Commission Report, as opposed to a Committee Report and I'll just update the Council that you guys want to go through a workshop; because I think it is something that probably could be fleshed out a little better. Again, we're dealing with a pre-existing non-conforming, is one of the things that leads me to believe well maybe this is more of something that should be permitted by event; but again, there are a lot of moving parts.

Linda Edelin: Who would attend this workshop?

Don Mazzeo: Any member of the Commission.

Linda Edelin: Just the Commission members, not Robin.

Don Mazzeo: The invitation to Robin would be extended, but there's no guarantee that Robin would show.

Robin Davis: Somebody needs to be here to watch that. Unfortunately, it's me.

Don Mazzeo: There's no reason we couldn't invite, by Commission, anyone that you aware of that would like to attend the meeting. Obviously, if they're on the Commission already, which is six of us, you can invite a neighbor if you think it's going to be instrumental in bringing something to the table that we didn't even think about yet. I don't have a problem, on a workshop level, bringing in the public, as long as they recognize that we are working and if they want to through an idea, we're not going to have a 25 minute dissertation on that particular comment. It's like, hey how about this. Okay, we'll take it down for future discussion or incorporated in that night's discussion.

Linda Edelin: We don't want a workshop where there's 50 people at the table.

Don Mazzeo: We don't want a workshop with 50 people, but again, how do you prevent... because you have to notice this and you could have a notice that says it's a workshop.

Seth Thompson: Right, I think that's right. It has to be noticed as a meeting, because it technically is a meeting whenever there's a quorum together discussing a piece of town business; but you don't have to receive public comment, or you can limit public comments at any of your meetings.

Don Mazzeo: And recognize that it would be open to anyone; we can enforce a time limit to what they might want to say.

Seth Thompson: That's right. It's an open meeting in the sense that it can't be behind closed doors.

Don Mazzeo: Do we need a motion on this to take it back to Council in recommending that we're going to have a workshop. The next thing will be when, I know.

Mark Quigley: What do we do with this specific condition with this particular applicant per se; how do we address it, being that there's somewhat time is of the essence; that's why this was being fed into us today? Do we just allow them to continue to park until...

Seth Thompson: Frankly, it's not really your jurisdiction.

Mark Quigley: It's not even an application. There's just a bunch of paper that was thrown at us.

Don Mazzeo: That's it. There's been a query from the organization. What can we do to guarantee ourselves to be within the law of having an off-site parking? That's what it boils down to. They just want to know, what do we need to do and we, we Town, did not have an answer until Mayor and Council said you guys over here on this Commission, you figure it out what that answer is.

Robin Davis: We did have an answer, but...

Don Mazzeo: They didn't like it. We had an answer. That's a very good question, Mark and I would suggest then that perhaps we say as a recommendation back to Mayor and Council, as well, that whatever posture we have been taking in the past, we Town, of not enforcing, that it should continue until we've had the opportunity to upgrade and decide on recommendations to Town Council.

Seth Thompson: And I would view the Commission's role as being more looking prospective...

Don Mazzeo: Rather than...

Seth Thompson: Right. Really it's more of a Code Enforcement issue currently.

Don Mazzeo: It is. So it is the Town's responsibility to blindly enforce, or blindly unenforce; whichever way you look at it.

Mark Quigley: Keep the status quo for the last how many years Robin has it been?

Seth Thompson: I think you probably could make a motion to schedule a workshop, so that there was some formal action taken on Council's assignment and then I'll be able to report back to them that the Commission will be scheduling a workshop.

Don Mazzeo: Then I will just query the Commissioner's that are here tonight. Is there an evening... First we have to find out if there's a space to have a meeting, which I don't know how we would even do that... I guess we'll have to go downstairs and check the calendar. Check your calendars if

you would; email me your availability for the balance of the month of September; recognizing that I'm going to be gone for 2-1/2 weeks.

Mark Quigley: Which 2-1/2 weeks?

Don Mazzeo: Right smack dab in the middle.

Mark Quigley: Okay.

Don Mazzeo: I don't even have to be there. The meeting is a workshop. As long as there is somebody willing to step up to the plate and if it happens to be the Secretary, just to organize the meeting.

Linda Edelin: When are you gone now?

Don Mazzeo: I'm going to be gone from the 6<sup>th</sup> or the 7<sup>th</sup>, until the 21<sup>st</sup>, 22<sup>nd</sup>; something like that. So my availability is very limited for the month of September.

Robin Davis: As of right now I do not think we have anything for September on the agenda.

Don Mazzeo: Oh, well that may be an evening that could be utilized instead of a meeting.

Bob Kerr: Heritage Creek Phase 5 construction drawings first review, were given to Doug this evening, so he has to make those changes; finish outside agencies. It would be tight to get that done essentially by the first of September to make the agenda.

Don Mazzeo: But even if they did, that might be the only item?

Bob Kerr: It would be similar to this evening. Five or ten minutes.

Don Mazzeo: Like this evening, so in fact we could have a meeting, adjourn the meeting and then open a workshop immediately behind it.

Seth Thompson: You wouldn't even have to do that; you would just notice it as the workshop portion of the meeting.

Don Mazzeo: Oh okay.

Robin Davis: And that too, if somebody was looking to maybe look into other Ordinances from municipalities, it would give them an opportunity at that time to get that altogether.

Don Mazzeo: That's true, too. So now we have an opportunity to have a motion on the table that we incorporate a workshop with the September Planning and Zoning Commissioner's Meeting on the 17<sup>th</sup> and at that time, if we have a volunteer who would like to step up to the table, or sit behind the table, and offer their time and energy to take a look at any other town's similar in size and design with respect to their off-site parking and just bring in, even if it's just one copy and we can run it off later in the night or whatever the case may be, or just have that person be responsible for the running of that portion of the meeting; if we could have a volunteer for that purpose. If we don't, then I'm not sure how we would handle that. We need a policy on that. No volunteers.

Seth Thompson: I'm willing to do it, the only problem is I come with a price tag.

Don Mazzeo: I know, I don't want to pay you, quite frankly. We have very

good folks right here. Robin, you were going to say something.

Robin Davis: I guess I can do it. I'll try to fit time in to try to find a couple that we can incorporate into what we're looking at.

Don Mazzeo: It would just be the off-site parking regulations and I'm not going to call them anything other than that, regulations.

Linda Edelin: Seth, would you have any recommendations as to which municipalities would be good to check out?

Seth Thompson: It's interesting, because you have that blend of old and new here; so you might want to look at a town, even like Ocean View. I imagine they have a difficult time with some of their parking. They have some old, some new, I'm trying to think of the towns that are still building out.

Don Mazzeo: You might catch Seaford.

Seth Thompson: Right. Millsboro, perhaps.

Don Mazzeo: Millsboro would be... We have used Millsboro in an Ad Hoc Committee Ordinance Review as one of those towns as a comparison.

Seth Thompson: Because they have a downtown section similar.

Don Mazzeo: Well they have a downtown section.

Seth Thompson: Well you have a Town Center.

Don Mazzeo: Okay, we have a Town Center. Okay? So I guess we need to make a motion to that effect, whatever I just said.

Seth Thompson: Yes, scheduling it for a workshop...

Don Mazzeo: Incorporated with the September 17<sup>th</sup> Planning and Zoning meeting and Robin will provide a comparison for at least two towns for the off-site parking review.

Lynn Ekelund: So moved.

Mark Quigley: Second.

Don Mazzeo: All in favor say aye. Opposed. Motion carried. Okay that's what we have for off-street parking waiver listed as 6.b. on this evening's agenda.

### **c. Procedures and Policy Review**

Potential changes and/or updates pertaining to code, procedure/policy and administration/practice related items

Don Mazzeo: The last thing on our agenda and we've kind of already wandered into the river of procedures and policy review as it was asked of me at last month's meeting of you fine folks; to forward anything that you thought you would like to have brought to this table for review, for addenda, anything that you would like to see changed, brought to the forefront and I received quite a number of items and I sent out that information to you as basically a compilation of all those things that were kind of put out there. I don't want to get into the details on this, this evening, only to the extent that we have a long list of items on here. What I would like is to possibly choose one, maybe two, from that master list that was sent out. We had buffers,

setbacks, Broadkill River zone, there's a couple of other items on here and I know... whatever they all are on this list. I think what we would probably want to do would be to do what we just suggested on this off-site parking, is to have a workshop on these. I don't want it to be as part of the general meeting; conclude the business of the meeting and then open up a workshop session after the meeting, depending upon the length of a given agenda. Next month we've already got this one planned out, so if we were to look at it and I'm just going to throw this out. Again, my list was not all encompassing, not prioritized, it was just I heard a lot of things were buffers and setbacks and how it's applied; whether it's for wetlands, whether it's for housing frontages that have rear loading, front loading. We have a five... I'm just using examples. We have a 5' setback right now for a house over in Heritage Creek; but we said, no, we don't want to do that. We want it 25', or whatever the numbers were; but we came up with a number that was different than and we had good, valid reasons. Why don't we want to incorporate that into our Codes? Or recommend that they get incorporated, excuse me. We can't do the changing, we can only make the recommendations and unless someone has a very strong objection and they would like to have a different topic, I would like to propose that buffers and setbacks, in general, be a topic for October's meeting of Planning and Zoning, which would be October 15<sup>th</sup>; time permitting. Now, if we happen to have 16 applications that evening, I would suggest we forego a workshop at that point.

Mark Quigley: The third Tuesday is the 15<sup>th</sup>.

Robin Davis: Yes, it's the 15<sup>th</sup>.

Don Mazzeo: There we go. Okay? And that's just my suggestion. Anyone else want to throw something totally out of the order that I have there? That's fine too.

Barry Goodinson: No, I think those are important and I was the one that had asked about the Broadkill River, in taps of capping pervious surface. If we're going to be talking about parking lots in September, we could just add that.

Don Mazzeo: This could dovetail into it. When I started this process two months ago, I suggested that there is no topic off limits, really. It's wide open. The Code is out there for review by any person, regardless of whether they're on the Commission or not. Joe Q. Public walks and says, how come this is like that? I think it should be different and there's a process, which we just basically discussed this evening. We are a body that allows us to take these steps. We're a knowledgeable body. We're not the smartest ones on the block, don't get me wrong, but we sure have a lot more input and availability of information than a lot of the folks that are not in attendance at these meetings. So, unless I hear objections, I would suggest and I don't think we need a motion on this... Maybe we do. But this is a suggestion that Robin we have in our October agenda, a workshop that will include buffers and setbacks. We can redefine that as we get to the workshop. Maybe we'll just say just buffers; or just buffers of this type; but we can at least have a starting

point and everybody good with that? Okay, good. Now I have a last... and this is just a question more I guess of Seth and/or Robin. Was I made to understand at the last meeting of Mayor and Council that there's going to be a review for the 2015 Comprehensive Plan?

Seth Thompson: I believed they mentioned that that process would be going forward.

Mark Quigley: Right.

Don Mazzeo: Okay, under those circumstances, has anyone put any money into the future budget for this process.

Seth Thompson: I think they're discussing it next door.

Barry Goodinson: I actually mentioned it to Councilwoman Patterson on the way in.

Don Mazzeo: Because this is not going to come inexpensively. I think the last one that was done had a lot of monies available; this goes back, basically, to 2003, when UDel probably had some input to it and several other major organizations that were doing it, basically for nothing, or at cost. I don't think that's going to happen this time around.

Seth Thompson: I think that's a good assumption.

Don Mazzeo: Unless there's a wonderful grant out there.

Barry Goodinson: What are they reviewing? We both missed it.

Mark Quigley: The Comprehensive Plan.

Don Mazzeo: There's a full Comprehensive Plan every five years, there's supposed to be a review for modifications to Comprehensive Plan and then a ten year plan has to be made for, I believe, for the entire process; where you're really taking every single sentence and reviewing the Comprehensive Plan for the Town of Milton. If you don't have a copy of it, you really should have it in your possession. Do I have my copy with me? No.

Barry Goodinson: There's a great guide. The State Planning Office has a guide that gives examples of local Comprehensive Plans, which is a really handy thing to look at.

Linda Edelin: Is it reviewed for how it might be lacking?

Don Mazzeo: Robin, would you address this, please?

Robin Davis: Basically it is a plan that the Town would like to see it's growth existing area and future land use areas. It's a way for the Town to plan and say over on the southern part of town we would like to have our industrial area over there, because of the railroad tracks, or there used to be the railroad tracks over there? Our northern portion, the 16 area, is our commercial zoned area. It's a way for the Town to see where it wants to grow and where it wants to keep certain areas. If you want to keep this area residential, this is a way. The Plan has to get certified through the State and that has to happen as the Chairman said, every so often; every ten years.

Mark Quigley: So it's mandated?

Barry Goodinson: It's mandated.

Robin Davis: Yes, it's mandated. At five years, you have to do a minimum of

a review of your Plan. All that is could be okay we looked at it and everything's okay, we sign it, we're good. It could be that simple. It could be amendments. It could we have some things in there, wording we want to change and then the full out update is you take page by page, everything, and say maps, this is what we want to change, we want to redo. We've got to go through the Plus Process, things like that.

Linda Edelin: And we're up for the five year review or the ten year?

Robin Davis: We're up for the five year right now; just a review. We got away with, in 2010, when it was certified by the Governor; we did minimal and actually got an update out of it.

Barry Goodinson: I've got to say though it is a boilerplate thing; the fact that no one here has one and the Town Council doesn't refer to it; it demonstrates that this is something that we went through the motions and it got stuck on a shelf. It's not a living document that's really utilized on an ongoing basis. I think this is an opportunity for us to really do some heavy lifting and do something that's significant and used.

Don Mazzeo: In 2008 or in 2007, I forget, there was a significant effort placed upon the scenario you have just indicated and a lot of it was watered down. This Commission put a lot of time and effort into it and it became watered down as it got to Mayor and Council.

Barry Goodinson: I think the fact that the economy tanked, basically everyone said that all bets are off. Any dreaming we did in this document, is no longer viable, but I think there's an opportunity. Because if you read it, like the opening part of it says something about downtown Milton is a lively mix of vibrant boutiques and shops, or something like that.

Don Mazzeo: Do you want to go downtown and find that?

Barry Goodinson: This is just taken off of a website, trying to get tourists here, but it's not a good document for us to use.

Don Mazzeo: It's a legal document because it's signed off by the Governor.

Bob Kerr: It is a very legal document in that anytime you do a rezoning, the Comprehensive Plan must have started out saying that. If you recall going through the Dogfish rezoning, the first step was to revise or amend the Comprehensive Plan to meet that change. We also did the same thing for a couple of individual lots up in the Cannery Village area; one out near Dr. Wagner's office, when the town allowed anybody who wanted to change from commercial to residential, just because they had been zoned commercial many, many years ago and you couldn't just go in and change the zoning. The Comprehensive Plan says what the zoning is in that area and what it is intended to be, so if somebody wanted to annex out along 16, toward Ellendale, well the Comprehensive Plan right now says what it shall be zoned; there's no changing that without major work. That's probably the biggest thing about a Comprehensive Plan.

Barry Goodinson: Yes, but I guess my point is that there were amendments made to the Comprehensive Plan to accommodate specific circumstances;

rather than the Town saying this is our Plan and what are we going to go advance it? How are we going to proactively go out and actualize the Plan? Because the point of a Plan, is to guide your actions. It's not, the point of a Plan is not to change and react in response to specific circumstances.

Don Mazzeo: But unfortunately, that's how it is processed. They react to a situation. However, that being said, my question I guess has been answered, we are going through a five-year review and to your point, Barry and to anyone else's, we have a responsibility to do the best we can, assuming we're all part and parcel of the members of this particular Commission. I, for one, hope to be able to do that. If you don't have a copy of the Comprehensive Plan, go on the website.

Barry Goodinson: It's in the book.

Don Mazzeo: It's not in the book.

Robin Davis: Yes, it's right there. It's in the book. Number two.

Don Mazzeo: I'm sure mine's there. I may have pulled mine out. What's the date on that?

Linda Edelin: 2010.

Don Mazzeo: You've got the 2010, okay, you've got the Revised one. Alright, does anyone else have anything to offer to the table this evening?

7. Adjournment

Don Mazzeo: I'll take a motion to adjourn.

Barry Goodinson: So moved.

Lynn Ekelund: Second.

Don Mazzeo: All in favor say aye. So moved. Meeting adjourned at 7:32 p.m.